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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,976	02/27/2002	Douglas R. Tingey	AAI-14145	6895

7590

03/10/2004

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EXAMINER

MEDINA SANABRIA, MARIBEL

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,976

Applicant(s)

TINGEY ET AL.

Examiner

Maribel Medina

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/27/04
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,972,304 (Bradley et al).

Bradley et al disclose a method for making a hexamine cobaltic salt wherein the method comprises the steps of:

(a) providing a solution of $\text{Co}(\text{X})_2$ and NH_4X , wherein X is at least one selected from the group consisting of chloride, bromide, perchlorate, and nitrate;

(b) combining the solution from (a) with an ammonia source comprising ammonium hydroxide, an ammonia-containing gas or a combination thereof;

(c) aging the combination obtained in (b) to provide a final hexamine cobalt (III) salt with a particle size of between about 25 and about 45 microns;

(d) adding a surface active catalyst to the aged combination in (c);

(e) introducing an oxygen-containing gaseous oxidizer to the aged combination in (d) to form a reaction mixture;

(f) maintaining the temperature of the reaction mixture in the range of 30° C. to 50°C.; and

(g) cooling the mixture from (f) and recovering said hexamine cobalt (III) salt therefrom as an admixture with the surface active catalyst. (See claim 1)

Art Unit: 1754

Bradley et al disclose:

That the oxygen-containing gaseous oxidizer can be introduced prior to the introduction of the surface active catalyst (See col. 3, lines 45-47); The ammonia is added in an amount sufficient to provide 6 equivalents of ammonia to cobalt (See col. 4, lines 39-46); The surface active catalyst is active carbon and is provided in an amount in the range from about 0.8 wt.% to about 1.5 wt.% in terms of the ratio of surface active catalyst to the theoretical yield of cobalt (III) (See col. 5, lines 25-34); and that the final product has a particle size in the range from about 25 to 45 microns (See col. 5, lines 1-4).

In regards to the limitation that reads "wherein the first precursor comprises $\text{Co}(\text{NH}_3)_5(\text{H}_2\text{O})(\text{NO}_3)_2$ " (instant claim 3 and claim 22, step b)), this first precursor would have been inherently provided once the first two steps (Steps a) and b)) of Bradley et al method are carried out.

In regards to the limitation that reads "wherein the at least partially oxidized second precursor comprises μ -peroxobis [pentamminecobalt]" (instant claim 4 and claim 22, step c)), this second precursor would have been inherently provided once the oxygen-containing gaseous oxidizer is introduced prior to the catalysts in Bradley et al method (See col. 3, lines 45-47).

In regards to the limitation that reads "wherein the third product precursor comprises pentammine-aqua cobaltic nitrate" (instant claim 5 and claim 22, step d)), the third precursor would have been inherently provided once temperature of the solution oxidized prior to the catalyst addition is maintained at a temperature in the range from the range of 30° C. to 50°C.

No difference is seen between the instantly claimed invention and Bradley et al disclosure.

Art Unit: 1754


Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maribel Medina whose telephone number is (571) 272-1355.

The examiner can normally be reached on Monday through Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Maribel Medina
Examiner
Art Unit 1754